REMARKS

Claims 18-22 remain in the application. All other claims have now been cancelled.

In the office Action of October 3, 2003, the Examiner issued a double patenting rejection over US 6,063620. The Examiner also reminded applicants that withdrawn claims 8-10 and 12-13 should be cancelled.

The Applicants respectfully request that the double patenting rejection be withdrawn. Under MPEP 804.01, a double patenting rejection is generally not proper where a restriction requirement has been made. In the present case, during prosecution of the 08/624,374 application, Examiner Bansal issued a restriction requirement on June 10, 1997, requiring election between claims 1-7, drawn to a hybridoma product (Group I), claims 8, 11, 14-15, and 20-21, drawn to a use (Group II), and claims 9-10, 12-13, 16-19, and 22-25, drawn to a treatment (Group III). Applicants elected group I in the parent case, without traverse.

Of the claims in group II, claims 20 and 21 were drawn to a test kit comprising a monoclonal antibody and a detectable label. The amendments to the claims, made subsequent to the restriction requirement, have not removed the line of demarcation between the parent case and the present divisional application. See, Gerber Garment Technology, Inc. v. Lectra Systems, Inc., 916 F.2d 683, 688 (Fed. Cir. 1990).

Accordingly, it is respectfully requested that the double patenting rejection now be withdrawn.

Claims 8-10 and 12-13 have been cancelled. There being no further rejections, it is submitted that the application is now in condition for allowance.

CONCLUSION

The above response and amendment are considered to place the application in condition for allowance. A prompt and favorable examination is respectfully requested.

Respectfully submitted,

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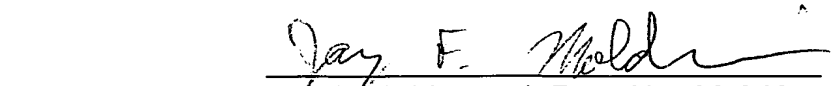

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